

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

ROBERT MORGAN, FRANK GIACOBBE, TODD
MORGAN, AND MICHAEL TREMITI,

Defendants.

18-cr-108-EAW

ORAL ARGUMENT
REQUESTED

NOTICE OF MOTION TO INTERVENE AND TO VACATE AND/OR CANCEL
THE NOTICE OF PENDENCY ON 59 UNION LLC'S REAL PROPERTY

PLEASE TAKE NOTICE that Proposed Intervenor 59 Union LLC respectfully moves this Court, before the Honorable Elizabeth A. Wolford, United States District Court Judge for the Western District of New York, Kenneth B. Keating Federal Building, 100 State Street, Rochester, New York, for an Order:

- (1) granting 59 Union LLC's request to intervene in this criminal action for the limited purpose of challenging the Notice of Pendency that was filed by the United States of America on June 3, 2019 against real property owned by 59 Union LLC that is located at 59 Union Square Boulevard in Chili, New York;
- (2) vacating and/or cancelling the Notice of Pendency pursuant to CPLR § 6501 and 6514(b); and
- (3) awarding any other or further relief as the Court deems just and proper.

59 Union LLC's Motion to Intervene and to Vacate and/or to Cancel the a Notice of Pendency is based on the accompanying Declaration of Michael M. Spoleta, Manager of 59 Union LLC, executed on July 12, 2019, and the Memorandum of Law dated July 12, 2019.

59 Union LLC respectfully requests oral argument on this motion.

59 Union LLC intends to file and serve reply papers.

REQUEST FOR RELIEF

WHEREFORE, for the reasons set forth in the accompanying Spoleta Declaration and 59 Union LLC's Memorandum of Law, 59 Union LLC respectfully requests that the Court issue an Order: (1) granting 59 Union LLC's request to intervene in this criminal action for the limited purpose of challenging the Notice of Pendency; (2) vacating and/or cancelling the Notice of Pendency; and (3) awarding any other or further relief as the Court deems just and proper.

Dated: July 12, 2019

BOND, SCHOENECK & KING, PLLC

By: /s/Mary P. Moore
Brian Laudadio, Esq.
Mary P. Moore, Esq.
350 Linden Oaks, Third Floor
Rochester, New York 14625
Telephone: (585) 362-4700

*Attorneys for Proposed Intervenor
59 Union LLC*